

**IN THE UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF ARKANSAS  
LITTLE ROCK DIVISION**

BONDARY McCALL  
REG. #43827-019

PLAINTIFF

V. NO: 4:07CV00847 SWW

GREGORY LOCKHART *et al.*

DEFENDANTS

**ORDER**

Plaintiff filed this complaint (docket entry #1) pursuant to 42 U.S.C. §1983 on September 7, 2007. Plaintiff did not pay the \$350.00 filing fee, or file a motion for leave to proceed *in forma pauperis*. On October 10, 2007, an order was entered directing Plaintiff to either pay the filing fee, or to file a motion for leave to proceed *in forma pauperis* within 30 days (docket entry #2). That same order also warned Plaintiff that his failure to do so could result in the dismissal of his complaint.

More than 30 days has now passed, and Plaintiff has not paid the filing fee, filed a motion for leave to proceed *in forma pauperis*, or otherwise responded to the order. Under these circumstances, the Court concludes that Plaintiff's complaint should be dismissed without prejudice for failure to comply with Local Rule 5.5(c)(2). *See Miller v. Benson*, 51 F.3d 166, 168 (8th Cir. 1995) (District courts have inherent power to dismiss *sua sponte* a case for failure to prosecute, and exercise of that power is reviewed for abuse of discretion).

IT IS THEREFORE ORDERED THAT:

1. Plaintiff's complaint is DISMISSED WITHOUT PREJUDICE.
2. The Court certifies that an *in forma pauperis* appeal taken from the order and

judgment dismissing this action is considered frivolous and not in good faith.

IT IS SO ORDERED this 26<sup>th</sup> day of November, 2007.

/s/Susan Webber Wright  
UNITED STATES DISTRICT JUDGE